

Conference Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 384

HOUSE BILL 2779

AN ACT

AMENDING TITLE 33, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING
SECTION 33-423; RELATING TO HAZARDS DISCLOSURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 33, chapter 4, article 2, Arizona Revised Statutes,
3 is amended by adding section 33-423, to read:

4 33-423. Disclosure; reports; indemnity; applicability

5 A. A DISCLOSURE REPORT AUTHORIZED PURSUANT TO THIS SECTION MAY BE
6 PROVIDED TO THE SELLER OF REAL PROPERTY BY A THIRD PARTY AS AUTHORIZED BY THE
7 SELLER AND SHALL BE BASED ON OFFICIALLY ADOPTED AND ELECTRONICALLY POSTED OR
8 OTHERWISE READILY AVAILABLE GOVERNMENTAL MAPS OR INFORMATION THAT DISCLOSES
9 WHETHER THE REAL PROPERTY IS SUBJECT TO ANY OF THE FOLLOWING:

10 1. SPECIAL FLOOD HAZARD AREAS DESIGNATED BY THE FEDERAL EMERGENCY
11 MANAGEMENT AGENCY PURSUANT TO 42 UNITED STATES CODE CHAPTER 50.

12 2. MILITARY AIRPORTS OR ANCILLARY MILITARY FACILITIES AS DEFINED IN
13 SECTION 28-8461 OR AS DISCLOSED PURSUANT TO SECTION 28-8484 OR 32-2113.

14 3. MILITARY TRAINING ROUTES AS SHOWN IN THE MAP PRODUCED PURSUANT TO
15 SECTION 37-102 AND MILITARY RESTRICTED AIRSPACE AS SHOWN IN THE MAP PRODUCED
16 PURSUANT TO SECTION 37-102.

17 4. PUBLIC OR PRIVATE AIRPORTS THAT ARE APPROVED BY THE FEDERAL
18 AVIATION ADMINISTRATION.

19 5. EXPANSIVE SOILS AS SHOWN ON MAPS ISSUED BY THE NATURAL RESOURCE
20 CONSERVATION SERVICE OR ON OTHER OFFICIALLY ADOPTED AND READILY AVAILABLE
21 GOVERNMENTAL MAPS.

22 6. SOILS SUBJECT TO FISSURES AS SHOWN ON MAPS ISSUED BY THE ARIZONA
23 GEOLOGICAL SURVEY OR ON OTHER OFFICIALLY ADOPTED AND READILY AVAILABLE
24 GOVERNMENTAL MAPS.

25 7. SPECIAL TAX ASSESSMENT AREAS AS SHOWN IN THE CURRENT TAX RECORDS OF
26 THE APPLICABLE COUNTY ASSESSOR.

27 8. RADON GAS POTENTIAL ZONES AS SHOWN ON CURRENT MAPS ISSUED BY THE
28 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

29 9. ENVIRONMENTAL HAZARD SUPERFUND SITES AS SHOWN IN REPORTS FROM THE
30 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY OR ON MAPS ISSUED BY THE
31 DEPARTMENT OF ENVIRONMENTAL QUALITY.

32 B. FOR ANY THIRD PARTY PROVIDER OF INFORMATION AS PRESCRIBED BY THIS
33 SECTION, THE FOLLOWING APPLIES:

34 1. A SELLER SHALL NOT BE REQUIRED TO PROVIDE THE WRITTEN DISCLOSURE
35 PROVIDED BY THIS SECTION TO AN INSURANCE COMPANY, A LENDER OR A GOVERNMENTAL
36 AGENCY.

37 2. THE THIRD PARTY PROVIDER SHALL CARRY INSURANCE COVERAGE WITH LIMITS
38 OF AT LEAST TEN MILLION DOLLARS PER OCCURRENCE.

39 C. IF AN ACTION IS BROUGHT AS A RESULT OF AN ERROR, INACCURACY OR
40 OMISSION IN THE DISCLOSURE MADE ONLY BY THE THIRD PARTY PROVIDER, THE THIRD
41 PARTY PROVIDER SHALL PROVIDE A DEFENSE AGAINST THE ACTION, SHALL INDEMNIFY
42 THE PERSON FOR ANY JUDGMENT RENDERED AND SHALL REIMBURSE REASONABLE ATTORNEY
43 FEES AND COSTS INCURRED IN DEFENDING THE ACTION, UNLESS THE PERSON HAD
44 KNOWLEDGE OF THE ERROR, INACCURACY OR OMISSION OR THE PERSON MODIFIED THE
45 DISCLOSURE AND THE MODIFICATION RESULTED IN THE ERROR, INACCURACY OR

1 OMISSION. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT A THIRD
2 PARTY PROVIDER OF INFORMATION FROM AGREEING BY CONTRACT THAT THE THIRD PARTY
3 PROVIDER SHALL INDEMNIFY A PERSON TO A GREATER EXTENT THAN IS REQUIRED BY
4 THIS SECTION.

5 D. IF INFORMATION THAT IS DISCLOSED PURSUANT TO THIS SECTION IS
6 SUBSEQUENTLY RENDERED INACCURATE AS A RESULT OF ANY GOVERNMENTAL ACTION, MAP
7 REVISION, CHANGED INFORMATION OR OTHER ACT OR OCCURRENCE AFTER THE DELIVERY
8 OF THE DISCLOSURE, NO PERSON IS LIABLE FOR THE INFORMATION THAT WAS DISCLOSED
9 UNLESS THE PERSON HAD KNOWLEDGE OF THE ERROR, INACCURACY OR OMISSION.

10 E. THIS SECTION SHALL NOT BE CONSTRUED TO CREATE A CAUSE OF ACTION FOR
11 THE USE OF MAPS OR OTHER INFORMATION PURSUANT TO THIS SECTION. THIS SECTION
12 DOES NOT APPLY TO THE SALE OF REAL PROPERTY BY ANY PERSON PURSUANT TO SECTION
13 32-2183 OR SECTION 32-2195.03, OR ANY AFFILIATE OF THAT PERSON.

APPROVED BY THE GOVERNOR JUNE 28, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 28, 2006.